

Ilonka Aylward
v.
City of Charlotte
and
Charlotte-Mecklenburg Stormwater Services (a.k.a. “Charlotte Stormwater Services,”
a.k.a. “Charlotte/Mecklenburg Storm Water,” a.k.a. “Charlotte Storm Water Services,”
a.k.a. “City of Charlotte Storm Water Services”)
and
Armstrong Glen, P.C.
and
Joseph (“Josh”) H. Letourneau, P.E.

Ilonka Aylward’s Complaint

Exhibit 12

From: [Lozner, Doug](#)
To: [Keene, John](#); [Shanaberger, Erin](#)
Subject: RE: [EXT] FW: [Non-DoD Source] Hinsdale-Tinkerbell Stormwater Project Environmental question (UNCLASSIFIED)
Date: Thursday, May 23, 2019 9:32:10 AM

Took the Corps off the email for comments on this.

This pipe will be directed at the opposite bank in some manner regardless unless you extend the wingwall the pipe exits another 20-ft. This would be more impacts and also create a need to redesign the SS again.

For the current design the pipe may be able to come into the WW at a 90-degree angle. This would require a MH in the road embankment and possibly a special curb inlet because the pipe would be leaving the inlet through the corner of the structure. Constructability and maintenance for the WW and MH would be a concern due to close proximity to each other.

This pipe is drainage a sag condition in the road so adjusting the curb inlet would be a much larger issue for grades in the road.

A possibility of CLTWater allowing for less than 2-ft of cover over the SS would provide us to either get another 6-inches of drop in the pipe or use a 24" pipe instead and lower velocities.

-----Original Message-----

From: Keene, John
Sent: Thursday, May 23, 2019 7:55 AM
To: Amschler, Crystal C CIV USARMY CESAW (US) <Crystal.C.Amschler@usace.army.mil>; Shanaberger, Erin <Erin.Shanaberger@ci.charlotte.nc.us>
Cc: Lozner, Doug <dlozner@ci.charlotte.nc.us>
Subject: RE: [EXT] FW: [Non-DoD Source] Hinsdale-Tinkerbell Stormwater Project Environmental question (UNCLASSIFIED)

Hi Crystal,

I'll pass this on to our consultant to see if we can change the angle of that particular storm drain.

Thanks again for your help.

John Keene, P.E.
Project Manager
City of Charlotte Storm Water Services
600 East 4th St, 14th Floor
Charlotte, NC 28202
Email: jkeene@charlottenc.gov
Office: 704-432-5216
Mobile: 980-293-2086
StormWater.CharMeck.org

-----Original Message-----

From: Amschler, Crystal C CIV USARMY CESAW (US) [<mailto:Crystal.C.Amschler@usace.army.mil>]
Sent: Thursday, May 23, 2019 7:50 AM
To: Keene, John <jkeene@ci.charlotte.nc.us>; Shanaberger, Erin <Erin.Shanaberger@ci.charlotte.nc.us>
Subject: RE: [EXT] FW: [Non-DoD Source] Hinsdale-Tinkerbell Stormwater Project Environmental question

(UNCLASSIFIED)

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John,

One other quick question and sorry to keep bugging you on this. Dr. Aylward sent me some more pictures and she has pointed out a little stormwater pipe that is directed towards the bank where she says some erosion has occurred (minor bank undercutting based on the picture). Looks like the stormwater pipe will be placed in relatively the same location post construction and at a 90 degree angle to the stream flow. We often ask that stormwater not come in a 90 degree angle to reduce potential erosion on the opposite bank. Again, I know that you are much earlier in the planning/designing stage that I would normally see a plan so this may get addressed as the process moves forward, but in order to address the concerns she has that are actually pertinent to regulatory, thought I'd go ahead and mention this and see if you have considered placing this pipe so it is not perpendicular to the stream or otherwise considered the potential impact of directing stormflow across the stream.

Thanks,

Crystal C. Amschler
Project Manager
Asheville Regulatory Field Office
151 Patton Avenue, Room 208
Asheville, NC 28403
(828)-271-7980 Ext 4231

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-----Original Message-----

From: Keene, John [<mailto:jkeene@ci.charlotte.nc.us>]

Sent: Wednesday, May 22, 2019 5:42 PM

To: Amschler, Crystal C CIV USARMY CESAW (US) <Crystal.C.Amschler@usace.army.mil>; Shanaberger, Erin <Erin.Shanaberger@ci.charlotte.nc.us>; Hinson, Isaac <ihinson@ci.charlotte.nc.us>; Deal, Bill <wdeal@ci.charlotte.nc.us>

Cc: Roden Reynolds, Bryan K CIV (US) <Bryan.K.RodenReynolds@usace.army.mil>; Johnson, Alan <alan.johnson@ncdenr.gov>; Lozner, Doug <dlozner@ci.charlotte.nc.us>

Subject: RE: [EXT] FW: [Non-DoD Source] Hinsdale-Tinkerbell Stormwater Project Environmental question (UNCLASSIFIED)

Hello everyone,

Just one small correction to make in Crystal's below email. It's a sanitary sewer line, instead of a water line, that has the potential for blasting.

With regard to the potential for blasting and the possible impacts that blasting could have on the stream, since the City cannot dictate the contractor's means and methods, and since the blasting permit (if needed) would be obtained by the contractor, I don't see the need to change the plans at this point. I will let Charlotte Water know what Crystal informed us about the potential impacts that blasting could have on the stream. It may be that Charlotte Water will decide to keep the sanitary crossing as an aerial.

Bill Deal - Let's discuss this early next week, if possible.

Thanks,

John Keene, P.E.
Project Manager
City of Charlotte Storm Water Services
600 East 4th St, 14th Floor
Charlotte, NC 28202
Email: jkeene@charlottenc.gov
Office: 704-432-5216
Mobile: 980-293-2086
StormWater.CharMeck.org

-----Original Message-----

From: Amschler, Crystal C CIV USARMY CESAW (US) [<mailto:Crystal.C.Amschler@usace.army.mil>]
Sent: Wednesday, May 22, 2019 3:52 PM
To: Shanaberger, Erin <Erin.Shanaberger@ci.charlotte.nc.us>; Hinson, Isaac <ihinson@ci.charlotte.nc.us>
Cc: Roden Reynolds, Bryan K CIV (US) <Bryan.K.RodenReynolds@usace.army.mil>; Keene, John <jkeene@ci.charlotte.nc.us>; Johnson, Alan <alan.johnson@ncdenr.gov>
Subject: RE: [EXT] FW: [Non-DoD Source] Hinsdale-Tinkerbelle Stormwater Project Environmental question (UNCLASSIFIED)

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All,

Just got off the phone with John who helped answers and help me better understand what proposed out there and what the issues are. No need to respond to the below email as he answered those questions for me.

I'm going to respond to Dr. Aylward based on my better understanding of the project. I did want to share with the group a couple of things that John and I talked about just to get us all on the same page. We discussed that there was potentially bedrock underlying this culvert and I told him that in the field, Alan, Erin and I discussed the fact that if bedrock is present, trying to create a bench either by placement of rip rap (which probably won't stay in place since it can't be imbedded and it would be sitting on rock) or by chiseling out the bedrock would not be necessary. Low flow is not maintained downstream due to the bedrock which is the streams natural state, so we would not want to do something that would possibly be harmful (riprap that could get washed downstream or chiseling cutting into the natural bedrock) in order to create a bench where would not naturally exist anyway. I believe Erin's notes said this as well but wanted to follow up with the group to make sure that we are all in agreement on that.

The other thing john mentioned was the need to potentially blast or cut through bedrock to bury a water line for the City. I told him that blasting has potential issues, including fracking and loss of stream flow, and we would require justification on why the utility line couldn't be aerial or otherwise installed without blasting or with less intrusive methods (directional boring??). just wanted to put that on everyone's radar as well. I assume that the utility line would be wrapped into a permit with the rest of this project correct?

Crystal C. Amschler
Project Manager
Asheville Regulatory Field Office
151 Patton Avenue, Room 208
Asheville, NC 28403
(828)-271-7980 Ext 4231

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-----Original Message-----

From: Amschler, Crystal C CIV USARMY CESAW (US)
Sent: Wednesday, May 22, 2019 3:13 PM
To: Shanaberger, Erin <Erin.Shanaberger@ci.charlotte.nc.us>; Hinson, Isaac <ihinson@ci.charlotte.nc.us>
Cc: Roden Reynolds, Bryan K CIV (US) <Bryan.K.RodenReynolds@usace.army.mil>; Keene, John <jkeene@ci.charlotte.nc.us>; Johnson, Alan <alan.johnson@ncdenr.gov>
Subject: RE: [EXT] FW: [Non-DoD Source] Hinsdale-Tinkerbell Stormwater Project Environmental question (UNCLASSIFIED)

Gotcha. thanks for the clarification, my notes from that site visit cover several areas, and I wasn't sure which one this one was and I missed the fact that this is a bottomless culvert as opposed to a regular culvert in the design that Dr. Aylward sent over.

So that makes sense about it being underlain by bedrock so no riprap. I know we discussed a contingency plan on what happens if you pull up the concrete flume and there is no bedrock. Have you all figured out how that would work yet? Also, would you have to over excavate into the bank to put in the bottom less culvert seeing how it's going to be twice the width of the existing pipe? If so, would there need to be stabilization or anything done where the bank gets backfilled or just matting? You said the wing wall will be placed at the location of the existing wing wall and the plan corroborates that as well, maybe a little further downstream. So there will be no cutting into the bank on that side at all? If that's the case, then I would convey to her that, if the engineers hasn't recommended riprap in this location, and the banks just below the culvert aren't eroding (doesn't look like they are) then we wouldn't ask for any riprap or stabilization measures. She did however send some pictures that show erosion downstream of this culvert on her property (see attached). I know that there was some spot stabilization that is proposed. Would there be any stabilization for these eroded areas on her property? She's concerned that a bigger culvert might increase erosion, but I'm wondering if the bigger culvert would eliminate the "water hose" effect and actually reduce erosional force even though there would be potentially higher volumes of water to pass through.

Crystal C. Amschler
Project Manager
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-----Original Message-----

From: Shanaberger, Erin [<mailto:Erin.Shanaberger@ci.charlotte.nc.us>]
Sent: Wednesday, May 22, 2019 2:33 PM
To: Amschler, Crystal C CIV USARMY CESAW (US) <Crystal.C.Amschler@usace.army.mil>; Hinson, Isaac <ihinson@ci.charlotte.nc.us>
Cc: Roden Reynolds, Bryan K CIV (US) <Bryan.K.RodenReynolds@usace.army.mil>; Keene, John <jkeene@ci.charlotte.nc.us>; Johnson, Alan <alan.johnson@ncdenr.gov>
Subject: RE: [EXT] FW: [Non-DoD Source] Hinsdale-Tinkerbell Stormwater Project Environmental question (UNCLASSIFIED)

Crystal,

This is the culvert on Hinsdale Street. We looked at this location in the field last summer. We are replacing the existing culvert with a bottomless culvert because of the large bedrock outcrop at the existing outfall (which has a concrete apron and is perched--see attached photo). The site visit was perpetuated by the attached email I sent on 8/20/18. John may be able to speak to this a little more, but we are essentially replacing the headwall/wingwall in the same location it exists in now; and I would guess that the lack of proposed rip rap is a result of the extensive bedrock (we may not be able to properly key it in, etc.). It would appear that the upstream wingwall is extended because the stream makes a much harder turn to enter the culvert.

I provided the attached summary of our field meeting ("RE: Hinsdale-Tinkerbelle") to John for consideration as we progress through design.

Hopefully this is helpful.

Thanks,

Erin

-----Original Message-----

From: Amschler, Crystal C CIV USARMY CESAW (US) [<mailto:Crystal.C.Amschler@usace.army.mil>]
Sent: Wednesday, May 22, 2019 2:16 PM
To: Shanaberger, Erin <Erin.Shanaberger@ci.charlotte.nc.us>; Hinson, Isaac <ihinson@ci.charlotte.nc.us>
Cc: Roden Reynolds, Bryan K CIV (US) <Bryan.K.RodenReynolds@usace.army.mil>; Keene, John <jkeene@ci.charlotte.nc.us>; Johnson, Alan <alan.johnson@ncdenr.gov>
Subject: RE: [EXT] FW: [Non-DoD Source] Hinsdale-Tinkerbelle Stormwater Project Environmental question (UNCLASSIFIED)

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Erin and John,

Just spoke with Dr. Aylward. She sent me the attached image of the plan. Her property is in the vicinity of the A1 on the plan and she wants the city to build a wing wall along the bank similar to the upstream side shown near A2. Her concern is that the wing wall will cut into the bank and cause additional erosion to an already eroding bank. My comment to her was that there would likely be some sort of stabilization in the form of rock or soil (I would think a mixture of riprap and soil due to high energy storm flows in Charlotte) to form a bench inside the wing wall in order to maintain the existing width of the stream. In fact, based on my field notes there will be several culverts where baffles should be installed, in which case the benches would be even bigger and extend into the width of the culvert. Not sure if that is the case here. She says she was told that there wouldn't be any rock stabilization in this area. I told her I would forward her concerns to your office. I know that you are early in the permitting stage, but can one of you please speak as to what type of benches will be built in this area.

Thanks,

Crystal C. Amschler
Project Manager
Asheville Regulatory Field Office
151 Patton Avenue, Room 208
Asheville, NC 28403
(828)-271-7980 Ext 4231

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-----Original Message-----

From: Shanaberger, Erin [<mailto:Erin.Shanaberger@ci.charlotte.nc.us>]

Sent: Wednesday, May 22, 2019 1:39 PM

To: Amschler, Crystal C CIV USARMY CESAW (US) <Crystal.C.Amschler@usace.army.mil>; Hinson, Isaac <ihinson@ci.charlotte.nc.us>

Cc: Roden Reynolds, Bryan K CIV (US) <Bryan.K.RodenReynolds@usace.army.mil>; Keene, John <jkeene@ci.charlotte.nc.us>

Subject: RE: [EXT] FW: [Non-DoD Source] Hinsdale-Tinkerbelle Stormwater Project Environmental question (UNCLASSIFIED)

Crystal,

We have not moved forward with permitting for this project yet as we are still developing and revising the construction plans. Does the citizen have a specific concern? The City project manager is John Keene. His contact info is below; feel free to direct her to us with any project-specific questions.

John Keene, P.E.

Project Manager; Storm Water Services

Email: jkeene@charlottenc.gov

Office: 704-432-5216

Mobile: 980-293-2086

Thank you,

Erin Shanaberger, PWS

Water Quality Program Specialist

City of Charlotte |Engineering & Property Management| Storm Water Services

(704) 562-2691 |erin.shanaberger@charlottenc.gov

-----Original Message-----

From: Amschler, Crystal C CIV USARMY CESAW (US) [<mailto:Crystal.C.Amschler@usace.army.mil>]

Sent: Wednesday, May 22, 2019 1:29 PM

To: Hinson, Isaac <ihinson@ci.charlotte.nc.us>; Shanaberger, Erin <Erin.Shanaberger@ci.charlotte.nc.us>

Cc: Roden Reynolds, Bryan K CIV (US) <Bryan.K.RodenReynolds@usace.army.mil>

Subject: [EXT] FW: [Non-DoD Source] Hinsdale-Tinkerbelle Stormwater Project Environmental question (UNCLASSIFIED)

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Isaac and Erin,

Just wanted to touch base with you on the subject project. We've had an inquiry about this project and I'm about to give Ms. Aylward a call and wanted to see what the status of this project is. I checked the file and last I have is we did a pre-app site visit out there summer of last year with Erin. Not sure if this project has been transition over to Helen yet, but if so, please forward my inquiry to her as needed.

Thanks,

Crystal C. Amschler

Project Manager
Asheville Regulatory Field Office
151 Patton Avenue, Room 208
Asheville, NC 28403
(828)-271-7980 Ext 4231

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-----Original Message-----

From: Ilonka Aylward [<mailto:draylward@carolina.rr.com>]

Sent: Wednesday, May 22, 2019 12:15 PM

To: Shaeffer, David Leigh (Dave) CIV USARMY CESAW (USA) <David.L.Shaeffer@usace.army.mil>

Cc: Ilonka Aylward <draylward@carolina.rr.com>; Amschler, Crystal C CIV USARMY CESAW (US)

<Crystal.C.Amschler@usace.army.mil>; Roden Reynolds, Bryan K CIV (US)

<Bryan.K.RodenReynolds@usace.army.mil>

Subject: Re: [Non-DoD Source] Hinsdale-Tinkerbell Stormwater Project Environmental question
(UNCLASSIFIED)

Thank you!!!

Ms. Amschler, would it be possible to give you a ring sometime? (I don't have your number).

Ilonka Aylward

> On May 21, 2019, at 2:40 PM, Shaeffer, David Leigh (Dave) CIV USARMY CESAW (USA)
<David.L.Shaeffer@usace.army.mil> wrote:

>

> CLASSIFICATION: UNCLASSIFIED

>

> Dr. Aylward,

>

> There is a public site but it only contains information on projects with large impacts. Here is the link:

BlockedBlockedBlockedBlocked<https://permits.ops.usace.army.mil/orm-public>

>

> If we permitted the Hinsdale-Tinkerbell project, I would assume that it was reviewed under a General Permit.
Crystal should be able to provide you with more project specific information.

>

> Sincerely,

>

> David L. Shaeffer

> Project Manager/Geographer

> U.S. Army Corps of Engineers

> Charlotte Regulatory Office

> Desk: 704-510-1437

>

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>

>

> -----Original Message-----

> From: Ilonka Aylward [<mailto:draylward@carolina.rr.com>]

> Sent: Tuesday, May 21, 2019 12:52 PM

> To: Shaeffer, David Leigh (Dave) CIV USARMY CESAW (USA) <David.L.Shaeffer@usace.army.mil>
> Cc: Ilonka Aylward <draylward@carolina.rr.com>; Amschler, Crystal C CIV USARMY CESAW (US)
<Crystal.C.Amschler@usace.army.mil>; Roden Reynolds, Bryan K CIV (US)
<Bryan.K.RodenReynolds@usace.army.mil>; Johnson, Alan NCDWR <alan.johnson@ncdenr.gov>
> Subject: Re: [Non-DoD Source] Hinsdale-Tinkerbelle Stormwater Project Environmental question
(UNCLASSIFIED)

>
> Thank you, Mr. Shaeffer!
>
> You are correct in all your assumptions!
>
>

> Before I bother anybody, is there a site where the public can find the actual 401 / 404 permit applications, or do I
have to trouble a person to see them?

>
> The project is
>
> Hinsdale-Tinkerbelle Storm Drainage Improvement Project.
> Permit pulled by the City of Charlotte / Charlotte Stormwater.
> 600 E. 4th Street, Charlotte, NC.
>
>

> Thank you again!
>
>

> On May 21, 2019, at 12:15 PM, Shaeffer, David Leigh (Dave) CIV USARMY CESAW (USA)
<David.L.Shaeffer@usace.army.mil <<mailto:David.L.Shaeffer@usace.army.mil>> > wrote:

> CLASSIFICATION: UNCLASSIFIED

> Dr. Aylward,

> I am assuming this project would occur within Mecklenburg County.

> This office is primarily responsible for administering Section 404 of the Clean Water Act (CWA) and Section
10 of the Rivers and Harbors Act (RHA). In Mecklenburg County, our authority is mostly limited to regulating the
filling of wetlands/streams/ponds/etc. Crystal Amschler is currently the Corps project manager that reviews
CWA/RHA permits submitted by Charlotte Mecklenburg Storm Water Services. Bryan Roden-Reynolds will be
assuming that role in a few weeks.

> Alan Johnson with the North Carolina Division of Water Resources handles the state water quality
certifications (Section 401 of the CWA). Alan can advise you on most state requirements.

> Sediment and erosion control regulations (primarily Section 402 of the CWA) are administered by the City of
Charlotte if you are in the City and Mecklenburg County if you are outside of the City.

> I have copied Crystal, Bryan, and Alan on this e-mail.

> Sincerely,

> David L. Shaeffer
> Project Manager/Geographer
> U.S. Army Corps of Engineers
> Charlotte Regulatory Office
> Desk: 704-510-1437

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>

>

> -----Original Message-----

> From: Ilonka Aylward [<mailto:draylward@carolina.rr.com>]

> Sent: Tuesday, May 21, 2019 11:14 AM

> To: Shaeffer, David Leigh (Dave) CIV USARMY CESAW (USA) <David.L.Shaeffer@usace.army.mil
<<mailto:David.L.Shaeffer@usace.army.mil>> >

> Cc: Ilonka Aylward <draylward@carolina.rr.com <<mailto:draylward@carolina.rr.com>> >

> Subject: [Non-DoD Source] Hinsdale-Tinkerbelle Stormwater Project Environmental question

>

> Dear Mr. Shaeffer,

>

> Are you the right person to contact about permitting/environmental questions for the forthcoming Hinsdale-Tinkerbelle Stormwater Project?

>

> I am a homeowner in the area, and have a couple of environmental question and concerns. Could you please direct me to the right person, or, if you are the person, could you lend me half an hour of your time?

>

> I appreciate your time, and apologize for the disruption.

>

> Dr. Ilonka Aylward

>

> email: draylward@carolina.rr.com <<mailto:draylward@carolina.rr.com>>

<<mailto:draylward@carolina.rr.com>>

> landline: 704.334.5902

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